

**CITY OF SAN JOSE AND OE#3
CITY PACKAGE PROPOSAL "A"**

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2012 (See Attached)

WAGES

See Attached

OVERTIME CALCULATION

See Attached

STAND-BY PAY

See Attached

SALARY STEP STRUCTURE

See Attached

HEALTHCARE COST SHARING

See Attached

HEALTHCARE CO-PAYS

See Attached

HEALTH AND DENTAL IN LIEU

See Attached

HEALTHCARE DUAL COVERAGE

See Attached

SICK LEAVE PAYOUT

See Attached

DISABILITY LEAVE

See Attached

**CITY OF SAN JOSE AND OE#3
CITY PACKAGE PROPOSAL "A"**

HOLIDAY CLOSURE

See Attached

RELEASE TIME

See Attached

COST OF REQUESTING LIST OF ARBITRATORS

See Attached

SUBSTANCE ABUSE POLICY

See Attached

ADMINISTRATIVE COST OF RETIREMENT PLAN

See Attached

SAFETY

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SIDE LETTERS

- Retirement Benefits for current and new employees
- Layoff
- Supplemental Retiree Benefit Reserve (SRBR)
- Subsidy for Public Transit

This proposal is submitted in an attempt to reach a settlement. In the event the proposal is not accepted, the City reserves the right to modify, amend and/or add proposals.

PERIOD OF MEMORANDUM OF AGREEMENT

Proposed Language:

ARTICLE 1 PERIOD OF MEMORANDUM OF AGREEMENT

This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2012. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

This language is intended to replace the language in Article 1 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – WAGES

Proposed Language:

- 5.1 Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to OE#3 (Union Code 06/061) shall be decreased by approximately 10%. This will result in the top and bottom of the range of all classifications represented by OE#3 being 10% lower. All employees will receive a 10% base pay reduction.

This language is intended to replace the language in Article 5.1 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – OVERTIME CALCULATION

Proposed Language:

- 6.6 Hours assigned and worked in excess of forty (40) hours per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked. Paid time off shall not be considered time worked for the purpose of calculating eligibility for overtime.
- 6.6.1 Notwithstanding 6.6 above, any full-time employee who works in excess of twelve (12) continuous hours shall receive two times the base hourly rate for all hours worked in excess of twelve (12) continuous hours. Notwithstanding 6.1, to be eligible for double time, paid absences shall not count towards determining eligibility for overtime at the 2.0 rate.
- 6.6.2 Double Backs. All double-backs (two non-consecutive shifts of at least eight (8) hours each within a 24-hour period) at the Water Pollution Control Plant will be compensated by a four hour premium (recorded as 1.0 OOT). This provision applies only to employees who work in a twenty-four (24) hour operation at the Water Pollution Control Plant and excludes employees who voluntarily shift trade, but includes relief personnel and shift changes.

This language is intended to replace the language in Articles 6.6, 6.6.1, & 6.6.2 of the OE#3 Memorandum of Agreement.

With this proposal, Article 6.11 shall be eliminated

CITY PROPOSAL – STAND BY PAY

Proposed Language:

5.9 Standby Pay. Employees who are required to perform stand by duty shall be credited with one hour compensation at the appropriate rate for each eight hour shift they perform standby duty. In the event that the employee is called back to work, they shall be entitled to the compensation provided by Section 5.8 above, in lieu of one hour of standby compensation for that eight-hour shift.

5.9.1 If an employee completes a 40-hour workweek, the appropriate rate for standby pay is 1.5. If the employee does not complete a 40-hour workweek, the appropriate rate is 1.0.

This language is intended to replace the language in Article 5.9 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – SALARY STEP STRUCTURE

Proposed Language:

5.1.1 Salary Steps. Effective June 26, 2011, the salary steps for all classifications represented by OE#3 will change from approximately 5% between each step to approximately 2.5%. This will result in an increase in the number of steps in the pay range.

This language is intended to be added to Article 5.1 in the OE#3 Memorandum of Agreement

CITY PROPOSAL – HEALTHCARE COST SHARING

Proposed Language:

- 5.5.1 Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

This language is intended to replace the language in Article 5.5.1 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – HEALTHCARE CO-PAYS

Proposed Language:

5.5.2 Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

This language is intended to replace the language in Article 5.5.2 of the OE#3 Memorandum of Agreement

2011 CITY OF SAN JOSE – OE#3 NEGOTIATIONS

CITY PROPOSAL – HEALTH AND DENTAL IN LIEU

Proposed Language:

5.7.1 Effective pay date July 1, 2011, employees who qualify for and participate in the payment in-lieu of health and/or dental insurance program will receive the following per pay period:

	Health in-lieu	Dental in-lieu
If eligible for family coverage	\$221.84	\$19.95
If NOT eligible for family coverage	\$89.09	\$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

This language is intended to replace the language in Article 5.7.1 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – HEALTHCARE DUAL COVERAGE

Health Insurance Proposed Language:

- 5.5.4 An employee may not be simultaneously covered by City-provided medical benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added as Article 5.5.4 of the OE#3 Memorandum of Agreement

Dental Insurance Proposed Language:

- 5.6.3 An employee may not be simultaneously covered by City-provided dental benefits as a City employee and as a dependent of another City employee or retiree.

This language shall be added as Article 5.6.3 of the OE#3 Memorandum of Agreement

2011 CITY OF SAN JOSE – OE#3 NEGOTIATIONS

CITY PROPOSAL - SICK LEAVE PAYOUT

Effective July 1, 2011, no employee shall be eligible for a sick leave payout.

With this proposal, Article 18.2 & 18.3 of the OE#3 Memorandum of Agreement shall be eliminated.

2011 CITY OF SAN JOSE – OE#3 NEGOTIATIONS

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Effective June 26, 2011, Disability Leave Supplement (DLS) is eliminated. Any employee receiving DLS as of June 25, 2011, will no longer be eligible to receive DLS starting June 26, 2011. Employees will only be eligible to receive Workers' Compensation Temporary Disability.

With this proposal, Article 19 of the OE#3 Memorandum of Agreement shall be eliminated

CITY PROPOSAL – HOLIDAY CLOSURE

Proposed Language:

- 16.2 Holiday Closure. The City Manager or designee may determine that all non-essential City operations close for a Holiday Closure during the Christmas and New Year's holiday. In such event, employees shall be encouraged to take time off; however, it shall not be a requirement.

If a department participates in the Holiday Closure and the employee elects to participate in the Holiday Closure using the Holiday Closure payroll code, the employee will be required to pay retirement contributions on any Holiday Closure hours and will not accrue vacation or sick leave while taking Holiday Closure time off.

Employees will continue to accrue seniority while using the Holiday Closure payroll code as though they were at work.

This language is intended to replace the language in Article 16.2 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – RELEASE TIME

Proposed Language

- 12.8.8 City Paid Union Release Time (URT). The designated bargaining unit representative(s) shall use the City Paid Union Release Time (URT) payroll code for any paid time off eligible for release time from regular City duties to attend authorized meetings. The designated bargaining unit representative(s) shall not receive compensation for meetings that may occur outside their regular work hours, inclusive of any unpaid lunch period. The use of City Paid Union Release Time (URT) will have no impact on seniority, sick leave and vacation accruals.

CITY PROPOSAL – ARBITRATION COST OF REQUESTING LIST OF ARBITRATORS

Proposed Language:

12.7.3 The parties may mutually agree upon the selection of the arbitrator or the Union shall request from the State of California Conciliation Service, to provide a list of seven (7) persons qualified to act as arbitrators. The Union shall notify the Municipal Employee Relations Officer that such request is being made.

Any costs associated with obtaining a list from the State of California Conciliation Service shall be paid by the Union.

This language is intended to replace the language in Article 12.7.3 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – SUBSTANCE ABUSE POLICY

Proposed Language:

- 31.1 Full-time and permanent benefited part-time employees are eligible for substance abuse treatment benefits and are subject to the terms and conditions of the City of San Jose Substance Abuse Program and Policy.

This language is intended to replace the language in Article 31 of the OE#3 Memorandum of Agreement

This change would result in Exhibit II being removed from the OE#3 Memorandum of Agreement

CITY PROPOSAL – ADMINISTRATIVE COST OF RETIREMENT PLAN

The City proposes to eliminate Article 26.1.2 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – SAFETY

Proposed Language:

- 11.1 The City shall provide a reasonably safe and healthy working environment in accordance with applicable Local, State and Federal laws and regulations. The Union agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.
- 11.2 Any employee who believes a violation exists may request that the City make a determination as to the safeness of the work assignment and further, be protected under the Cal/OSHA regulations, including but not limited to Labor Code Section 6311.
- 11.3 No provisions of this Article shall be subject to the grievance procedure of this agreement.

This language is intended to replace the language in Article 11 of the OE#3 Memorandum of Agreement

CITY PROPOSAL – CONTRACTING OUT

Proposed Language:

ARTICLE 2 RECOGNITION

- 2.1 Pursuant to Resolution No. 39367 of the City Council of the City of San Jose and the provisions of applicable state law, the International Union of Operating Engineers, Local No. 3, hereinafter referred to as the Union, is recognized as the exclusive representative for the purpose of meeting and conferring on matters within the scope of representation for employees assigned to the classifications listed in Exhibit I attached and incorporated by reference into this Agreement. The classifications listed in Exhibit I and subsequent additions thereto or deletions therefrom shall constitute appropriate units.
- 2.2 The City agrees to meet and confer with the Union prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

This language is intended to replace the language in Article 2 in the OE#3 Memorandum of Agreement

CITY PROPOSAL – HOUSEKEEPING

Proposed Language:

Article 5.14.5

Change “specified in Section 5.15.4 above” to “specified in Section 5.14.4 above”

Article 12.8.3

Replace “General Services” with “Public Works”

Article 12.9.5

Change “writing at 12.4 – Step II” to “writing at 12.5 – Step II”

Article 16.5.1

Change “found in Article 31” to “found in Article 32”

Article 18.1.2.1

Replace “permanent and stationary” with “maximum medical improvement”

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)

RETIREMENT REFORM

The City and the International Union of Operating Engineers, Local No. 3 (OE#3) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees.

Either the City or OE#3 may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or OE#3 receives notice from the other. The City and OE#3 shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and OE#3.

FOR THE CITY:

FOR OE#3:

Jennifer Schembri Date
Office of Employee Relations

Bill Pope Date
International Union of Operating
Engineers, Local No. 3 (OE#3)

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)

LAYOFF

The City and the International Union of Operating Engineers, Local No. 3 (OE#3) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or OE#3 receives notice from the other. The City and OE#3 shall meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

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FOR THE CITY:

FOR OE#3:

Jennifer Schembri
Office of Employee Relations

Date

Bill Pope
International Union of Operating
Engineers, Local No. 3 (OE#3)

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the International Union of Operating Engineers, Local No. 3 (OE#3) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or OE#3 may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or OE#3 receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and OE#3 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

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Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)

SUBSIDY FOR PUBLIC TRANSIT

The City and the International Union of Operating Engineers, Local No. 3 (OE#3) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

Either the City or OE#3 may provide notice to the other of its request to discuss the programs available to employees that provide subsidies for public transit. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or OE#3 receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and OE#3 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures.

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